UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,298	10/23/2001	Tal Givoly	XACTP008	9823

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Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

EXAMINER
NGUYEN, HAI V

ART UNIT	PAPER NUMBER
2142	

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>03</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 October 2001</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/03/01; 10/21/02</u>.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

1.   This Office Action is in response to the application filed on 23 October 2001.

2.   Claims 1-26 are presented for examination.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4.   Claims 9, 22 are rejected under 35 U.S.C. 101 because the claims recite "the computer program product comprising computer code" is NOT equivalent to the computer readable medium.

5.   Claims 10, 23 are rejected under 35 U.S.C. 101 because the claimed invention is non-functional descriptive material and is directed to non-statutory subject matter. Claims 10, 23 describe "a system comprising logic for..", which when read in light of specification amounts to nothing more than computer software void of a computer readable medium. See MPEP 2106(IV)(B)(1).

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the . applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7.   Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by **Bullard**

et al. U.S. patent # 6,405,251 **B1**.

8.   As to claim 1, Bullard, Enhancement Of Network Accounting Records, discloses

a method for reducing latency while handling network accounting records using an

aggregator, comprising:

     (a)   receiving records indicative of network events, wherein the records are

     received in an aggregator for the purpose of aggregating the records *(Bullard,*

Fig. 1, item 13, Abstract); and

     (b)   generating a command in response to the receipt of the records by the

aggregator *(Bullard, Fig. 27, items 678, 676; Fig. 28, items 682)*;

     (c)   wherein services are rendered in response to the command with minimal

latency *(Bullard, specified period of time, or aggregation time interval, or aggregation*

period) caused by the aggregator *(Bullard, Fig. 6, col. 5, lines 7-21; col. 7, lines 17-38;*

col. 12, lines 1-7; col. 14, lines 43-53; Fig. 14, item 320, col. 18, lines 1-11; Fig. 20, col.

21, lines 39-64).

9.   As to claim 2, Bullard discloses, wherein the command includes a start command

that is generated immediately before the aggregator generates a memory state in

response to the receipt of records *(Bullard, Fig. 6, col. 5, lines 7-21; col. 7, lines 17-38;*

Fig. 27, items 678, 676; Fig. 28, items 682).

10.   As to claim 3, Bullard discloses, wherein the command includes a start command

that is generated immediately before other operations are performed by the aggregator

in response to the receipt of the records *(Bullard, Fig. 6, col. 5, lines 7-21; col. 7, lines 17-38; Fig. 27, items 678, 676; Fig. 28, items 682).*

11.   As to claim 4, Bullard discloses, wherein the command includes a start command that is sent immediately to a receiving device or module in a data collection system of which the aggregator is a component *(Bullard, Fig. 6, col. 5, lines 7-21; col. 7, lines 17-38; Fig. 27, items 678, 676; Fig. 28, items 682).*

12.   As to claim 5, Bullard discloses, wherein the start command is sent over a network utilizing at least one of UDP/IP, TCP/IP, and IPX protocol *(Bullard, Fig. 27, items 678, 676; Fig. 28, items 682; col. 27, lines 30-35; col. 28, lines 8-39).*

13.   As to claim 6, Bullard discloses, wherein the records are received over a network utilizing at least one of UDP/1P, TCP/IP, and IPX protocol *(Bullard, Fig. 27, items 678, 676; Fig. 28, items 682; col. 27, lines 30-35; col. 28, lines 8-39).*

14.   As to claim 7, Bullard discloses, wherein the records are received from information sources *(Bullard, Fig. 1, items 12a-12h).*

15.   As to claim 8, Bullard discloses, and further comprising determining whether any of the records is a signal, wherein the aggregation is evaluated in immediate response to the receipt of the signal to further minimize latency *(Bullard, Fig. 6, col. 5, lines 7-21; col. 7, lines 17-38; col. 12, lines 1-7; col. 14, lines 43-53; Fig. 14, item 320, col. 18, lines 1-11).*

16.   Claim 9 is corresponding computer readable medium claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

17.   Claim 10 is corresponding system comprising computer readable medium claim

of claim 1; therefore, it is rejected under the same rationale as in claim 1.

18.   As to claim 11, Bullard discloses a method for reducing latency while handling

network accounting records using an aggregator, comprising:

(a)   receiving records indicative of network events, wherein the records are

received in an aggregator for the purpose of aggregating the records *(Bullard,*

Fig. 1, item 13, Abstract); and

(b)   sending a command to a receiving device or module in a data collection

system of which the aggregator is a component in response to the receipt of the records

by the aggregator *(Bullard, Fig. 6, col. 5, lines 7-21; col. 7, lines 17-38; Fig. 27, items*

678, 676; Fig. 28, items 682);

(c)   wherein services are rendered in response to the command with minimal

latency caused by the aggregator *(Bullard, Fig. 6, col. 5, lines 7-21; col. 7, lines*

17-38; col. 12, lines 1-7; col. 14, lines 43-53; Fig. 14, item 320, col. 18, lines 1-11; Fig.

20, col. 21, lines 39-64).

19.   As to claim 12, Bullard discloses a method for reducing latency while handling

network accounting records using an aggregator, comprising:

(a)   receiving records indicative of network events, wherein the records are

received in an aggregator for the purpose of aggregating the records *(Bullard,*

Fig. 1, item 13, Abstract); and

(b)   evaluating the records in immediate response to the receipt of the records

to determine whether an update or stop command is necessary *(Bullard, Fig. 6, col. 5,*

lines 7-21; col. 7, lines 17-38; Fig. 27, items 678, 676; Fig. 28, items 682); and

(c)   · wherein minimal latency is caused by the aggregator *(Bullard, Fig. 6, col.*

5, lines 7-21; col. 7, lines 17-38; col. 12, lines 1-7; col. 14, lines 43-53; Fig. 14, item 320,

col. 18, lines 1-11; Fig. 20, col. 21, lines 39-64).

20.   As to claim 13, Bullard discloses, further comprising generating the update or

stop command immediately in response to the receipt of the records if the update or

stop command is necessary *(Bullard, Fig. 27, items 678, 676; Fig. 28, items 682).*

21.   As to claim 14, Bullard discloses, wherein the command is sent immediately to a

receiving device or module in a data collection system of which the aggregator is a

component *(Bullard, Fig. 6, col. 5, lines 7-21; col. 7, lines 17-38; Fig. 27, items 678,*

676; Fig. 28, items 682).

22.   As to claim 15, Bullard discloses, wherein the command is sent over a network

utilizing at least one of UDP/IP, TCP/IP, and IPX protocol *(Bullard, Fig. 27, items 678,*

676; Fig. 28, items 682; col. 27, lines 30-35; col. 28, lines 8-39).

23.   Claim 16 is similar limitation of claim 8; therefore, it is rejected under the same

rationale as in claim 8.

24.   As to claim 17, Bullard discloses, wherein the evaluation of the records includes

determining whether a threshold is met *(Bullard, col. 31, line 32 – col. 32, line 27).*

25.   As to claim 18, Bullard discloses, wherein the threshold is user-configured

(Bullard, col. 31, line 32 – col. 32, line 65).

26.   As to claim 19, Bullard discloses, wherein the aggregation is updated by marking one of the records that was last sent if an update threshold is met *(Bullard, col. 31, line 32 – col. 32, line 65; col. 33, line 14-55)*.

27.   As to claim 20, Bullard discloses, wherein the aggregation is stopped by resetting a memory state associated with the records if a stop threshold is met *(Bullard, col. 31, line 32 – col. 32, line 65; col. 33, line 14-55)*.

28.   As to claim 21, Bullard discloses, wherein the aggregation is evaluated periodically in addition to being updated in immediate response to the receipt of the signal *(Bullard, col. 31, line 32 – col. 32, line 65; col. 33, line 14-55)*.

29.   Claim 22 is corresponding computer readable medium claim of claim 12; therefore, it is rejected under the same rationale as in claim 12.

30.   Claim 23 is corresponding system comprising computer readable medium claim of claim 12; therefore, it is rejected under the same rationale as in claim 12.

31.   Claim 24 is corresponding method claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

32.   Claim 25 is corresponding method claim of claim 11; therefore, it is rejected under the same rationale as in claim 11.

33.   Claim 26 is corresponding method claim of claim 1; therefore, it is rejected under the same rationale as in claim 1.

34.   Further references of interest are cited on Form PTO-892, which is an

attachment to this action.

35.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Hai V. Nguyen whose telephone number is 571-272-

3901. The examiner can normally be reached on 6:00-3:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jack Harvey can be reached on 571-272-3896. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

JACK D. HARVEY
JPERVISORY PATENT EXAMINER

Hai V. Nguyen
Examiner
Art Unit 2142